



## Summary of the Open General License Pilot Program

**OVERVIEW:** The Directorate of Defense Trade Controls (DDTC) has issued Open General Licenses (OGLs) No. 1 and No. 2 implementing, as a pilot program pursuant to ITAR § 120.22(b), a new mechanism for licensing reexports and retransfers of unclassified defense articles to pre-approved parties within Australia, Canada, and the United Kingdom. The OGLs prescribe a set of terms and conditions under which qualifying transactions may be conducted. Under the pilot program, the two OGLs are valid from August 1, 2022, through July 31, 2026. DDTC will evaluate the merits of this new licensing mechanism during that period and may extend or amend the licenses prior to their expiration date.

### **Why is DDTC implementing the Open General License Pilot Program?**

DDTC is continuously reviewing options to further the development and maintenance of an effective modern and agile export control system. This OGL mechanism is similar in concept to those administered by Australia, Japan, the United Kingdom, and others. Implementation of the pilot program is consistent with DDTC's mission of ensuring that commercial exports of defense articles and defense services advance U.S. national security and foreign policy objectives, in part by facilitating legitimate defense trade with partners and allies while denying adversaries access to sensitive U.S. technology.

### **What are Open General Licenses?**

Each OGL does the following:

- Describes a type of reexport or retransfer licensed under the OGL
- Specifies the types of defense articles, including categories of technical data, eligible for transfer
- Identifies the eligible country destinations, recipients, and end uses for the defense articles
- Lists additional requirements, limitations, and provisos that must be satisfied for use

	OGL 1	OGL 2
Activity Licensed	<b>Retransfers</b> (§ 120.52) of <i>unclassified</i> defense articles to: <ul style="list-style-type: none"><li>• The governments of Australia, Canada, or the UK; or</li><li>• Members of the Australian or UK Communities (§§ 126.16(d) and 126.17(d)), or to Canadian-registered persons (§ 126.5(b)).</li></ul>	<b>Reexports</b> (§ 120.51) of <i>unclassified</i> defense articles to: <ul style="list-style-type: none"><li>• The governments of Australia, Canada, or the UK; or</li><li>• Members of the Australian or UK Communities (§§ 126.16(d) and 126.17(d)), or to Canadian-registered persons (§ 126.5(b)).</li></ul>
Eligible Defense Articles	<ul style="list-style-type: none"><li>• Only <b>unclassified</b> defense articles.</li><li>• No defense articles listed on the Missile Technology Control Regime (MTCR) Annex or identified as Missile Technology (MT) on the United States Munitions List (USML).</li><li>• Technical data <u>only</u> for organizational-level, intermediate-level, or depot-level maintenance, repair, or storage of a defense article.</li></ul>	



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End Uses	<ul style="list-style-type: none"><li>Any transfer of a defense article, other than technical data, is <b><i>for end-use by, or operation on behalf of</i></b>, the Government of Australia, the Government of Canada, or the Government of the United Kingdom.</li><li><u>Not</u> for support the design, development, engineering, manufacture, production, assembly, testing, repair, maintenance, modification, operation, demilitarization, destruction, or processing of a missile, UAV, space-launch vehicle, item listed on the MTCR Annex, or item listed as MT on the USML in ITAR part 121.</li></ul>	
Transfer territory	Retransfer must take place wholly <u>within</u> the physical territory of Australia, Canada, or the UK.	Reexport must take place <u>wholly within</u> <u>or between</u> the physical territory of Australia, Canada, or the UK.
Use Requirements	The transferor shall: <ul style="list-style-type: none"><li>Comply with the requirements of § 123.9(b);</li><li>Maintain specified records of each retransfer/reexport;</li><li>Make records available to DDTC upon request; and</li><li>Use the OGL number as the license or other approval number.</li></ul>	
Other Provisos & Limitations	<ul style="list-style-type: none"><li><b><i>Original Export Approved by DDTC</i></b>: Defense articles to be transferred must have been originally exported pursuant to a license or other approval issued by DDTC pursuant to section 38 of the Arms Export Control Act (AECA).<ul style="list-style-type: none"><li>Items originally exported via Foreign Military Sales (FMS) are not eligible.</li></ul></li><li><b><i>Congressional Notification</i></b>: Any major defense equipment (§ 120.37) valued (in terms of its original acquisition cost) at \$25,000,000 or more and any defense article or related training or other defense service valued (in terms of its original acquisition cost) at \$100,000,000 or more, may only be transferred for the purpose of:<ul style="list-style-type: none"><li>maintenance, repair, or overhaul defense services, including the repair of defense articles used in furnishing such services, if the retransfer will not result in any increase in the military capability of the defense articles and services to be maintained, repaired, or overhauled; or</li><li>temporary retransfer for the purpose of receiving maintenance, repair, or overhaul.</li></ul></li></ul>	

***Can the OGLs be used to export defense articles?***

No, the OGLs license certain reexports and retransfers of unclassified defense articles for end-use specified in the licenses. These OGLs are designed to support the mission readiness of our allies by facilitating defense trade activity related to the maintenance, repair, and storage of unclassified defense articles deployed or in-inventory rather than supporting new acquisitions or capabilities. Eligible persons may be able to use the existing exemption in ITAR § 125.4(b)(5) with the OGLs for transfers of unclassified technical data for operation of certain defense articles on behalf of government end-users.

***Where can I find additional guidance on the OGL Pilot Program?***

For assistance or additional questions, please contact the DDTC Response Team at [ddtccustomerservice@state.gov](mailto:ddtccustomerservice@state.gov) or (202) 663-1282.